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Thousands of Professionals' Malpractice Coverage At Risk
Three Special Deputy Receivers File On Behalf of TN Commissioner of Commerce
& Insurance In Reciprocal of America Medical, Legal Malpractice Insurance Case

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(February 28, 2003, Richmond, VA) - Acting to protect thousands of doctors, lawyers, counselors and health facilities insured through Virginia-based Reciprocal of America (ROA), three special deputy receivers in the case filed for an immediate stay with Melvin J. Dillon and the Virginia State Corporation Commission (SCC) today on behalf of the Tennessee Commissioner of Commerce & Insurance. It is the latest move in a high-profile professional malpractice matter with far-reaching implications for medical and legal professionals across the U.S.

The filing seeks to stop the depletion of assets of ROA in order to protect the thousands of doctors, lawyers, counselors and health facilities insured by three Tennessee-chartered ROA-related companies - American National Lawyers Insurance Reciprocal, Doctors Insurance Reciprocal, and The Reciprocal Alliance. It also seeks Mr. Dillon's cooperation in gaining access to crucial financial and operating records of the companies.

The Tennessee Receivers contend that ROA and the three Tennessee-chartered insurers were operated as a single commercial enterprise and therefore the policyholders of all four should be treated alike. Mr. Dillon has taken the position that policyholders of ROA have priority in claims payments and that the other three insurers and their policyholders have the status of creditor rather than policyholder and therefore will have a very low priority in the distribution of available funds.

The action comes on the heels of reports that Dillon, Virginia's Deputy Receiver for ROA, terminated employees of one of Reciprocal of Americas' Tennessee-chartered affiliates who met with lawyers in the Richmond offices of the law firm Reed Smith LLP yesterday to prepare the brief for today's action.

Reciprocal of America, managed by The Reciprocal Group (TRG), is one of the

largest insurers of hospitals and health facilities in the nation. It was placed in receivership on January 29, 2003, by the Circuit Court of the City of Richmond (Virginia) because of financial instability. ROA/TRG is also the primary reinsurer for American National Lawyers Insurance Reciprocal (ANLIR), Doctors Insurance Reciprocal (DIR) and The Reciprocal Alliance, three Tennessee-chartered affiliates also managed by The Reciprocal Group. According to today's filing, ROA/TRG had complete control of the marketing and administration of the three Tennessee-chartered companies and are, in fact, the same company.

At stake is the malpractice coverage for thousands of doctors, lawyers, counselors, health facilities and others across the U.S. ANLIR provides coverage to a total of 14,642 lawyers nationwide, 5,323 of whom are in Virginia. DIR insures 3,690 subscribers, 2,025 of which are in Virginia. TRA covers 17,393 subscribers nationwide, many of which are professional associations. One of those subscribers is the American Counseling Association, with 26,000 members insured by TRA.

On behalf of Tennessee Commissioner Paula A. Flowers, Special Deputy Receivers (SDRs) Robert S. Brandt for ANLIR, Michael Pearigen for TRA and Knox Walkup for DIR asked to halt such payments to ROA's policy claimants, and challenged the receivership appeal procedure in the matter (Commonwealth of Virginia, ex rel. State Corporation Commission v. Reciprocal of America, The Reciprocal Group, and Jody M. Wagner, Treasurer of Virginia, Case No. INS-2003-00024).

Flowers placed the Tennessee companies under receivership two days after ROA was placed in receivership. Today's filing asserts that she and the SDRs for the three companies have since been denied access to crucial financial and operating documents that are in the possession of and under the control of ROA/TRG in Virginia.

"We have been allowed very limited access to the employees administering the policies of the companies in Tennessee and to the books and records of these three companies that are held in trust in Virginia," said Commissioner Flowers. "Our position is that the funds paid by policyholders of Tennessee companies should not be used to pay any claims until we can review all of these documents. Otherwise, there is a risk that paying the claims of Virginia-based ROA/TRG will prematurely deplete the funds of other companies sharing this common management arrangement, to the detriment of thousands of professional attorneys, healthcare providers and school counselors who will effectively no longer have malpractice coverage."

Flowers and the SDRs ask Dillon and the SCC to immediately stop payments from TRB/ROA to ROA's claimants and to quickly determine either that all insureds of the four affiliated companies will be treated uniformly with respect to payment of claims or that no claims of any of the four companies will be paid. In addition, they ask for "immediate, unfettered" access to all documents, records and properties of the three Tennessee companies that are

presently under the control of TRG/ROA , as well as creation of a more expedient process to resolve the present and future differences between the parties.

"We have a responsibility to protect the interests of the insureds of the three Tennessee companies who have outstanding claims that may never be paid if this is not promptly resolved," Commissioner Flowers said. "It is imperative that we act quickly, before the limited funds that may be available are expended by ROA."

The claim and appeal cites seven points of law supporting the action, including three Constitutionally based arguments.

Today's filing can be found at www.state.tn.us/commerce under the Insurance tab.